

**BEFORE THE
U.S. DEPARTMENT OF ENERGY
Washington, D.C. 20585**

In the Matter of:

Sunshine Lighting

(metal halide lamp fixtures)

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Case Number: 2014-SE-54008

NOTICE OF PROPOSED CIVIL PENALTY

Date issued: March 12, 2015

Number of alleged violations: 2914

Maximum possible assessment: **\$582,800**

Proposed civil penalty: **\$582,800**

The U.S. Department of Energy (“DOE”) Office of the General Counsel, Office of Enforcement, alleges Lighting & Supplies, Inc. d/b/a Sunshine Lighting Company (“Sunshine”) has violated certain provisions of the Energy Policy and Conservation Act, 42 U.S.C. § 6291 *et seq.* (“the Act”), and 10 C.F.R. Parts 429 and 431.

Specifically, DOE alleges:

1. A metal halide lamp fixture is a “covered product,” 42 U.S.C §§ 6292(a)(19) and 6291(64).
2. Effective January 1, 2009, metal halide lamp fixtures designed to operate with lamps rated greater than or equal to 150 watts but less than or equal to 500 watts that are manufactured and distributed in commerce in the United States and contain a magnetic probe-start ballast must have a minimum ballast efficiency of 94%. 10 C.F.R. § 431.326(a)(2).
3. Sunshine has manufactured¹ and distributed in commerce in the United States metal halide lamp fixture basic models 04937-SU and 04952-SU.
4. These Sunshine metal halide lamp fixture basic models are not in conformity with the applicable energy conservation standard.
5. Since February 1, 2010, Sunshine distributed in commerce in the United States 1780 units of basic model 04937-SU and 1134 units of basic model 04952-SU that did not meet the applicable energy conservation standard.

¹ “Manufacture” means to manufacture, produce, assemble or import. 42 U.S.C. § 6291(10).

The following information is provided in question and answer format to help explain Sunshine's legal obligations and options.

What do I do now?

DOE is offering to settle this enforcement action if you submit the signed Compromise Agreement within thirty (30) calendar days of the date of this Notice and then fulfill all obligations of the Compromise Agreement, which includes paying the fine within thirty (30) days of the date of an Order adopting the Compromise Agreement.

If you do not choose to settle the case, DOE may seek the maximum penalty authorized by law (\$582,800). You have other options as described below.

What are my other options?

If you do **not** agree to DOE's settlement offer, then you must select Option 1 or Option 2 below within thirty (30) calendar days of the date of this Notice.

Option 1: You may elect to have DOE issue an order assessing a civil penalty. Failure to pay the assessed penalty within sixty (60) calendar days of the order assessing such penalty will result in referral of the case to a U.S. District Court for an order affirming the assessment of the civil penalty. The District Court has the authority to review the law and the facts *de novo*.

Option 2: You may elect to have DOE refer this matter to an Administrative Law Judge ("ALJ") for an agency hearing on the record. Upon a finding of violation by the ALJ, DOE will issue an order assessing a civil penalty. This order may be appealed to the appropriate U.S. Court of Appeals.

When must I respond?

You must submit the signed Compromise Agreement within thirty (30) calendar days of the date of this Notice to pay the lowest penalty. If you do not wish to settle AND you wish to choose Option 1 as described above, you must notify DOE of your selection of Option 1 within thirty (30) calendar days of the date of this Notice. Otherwise, if you do not settle the case, DOE will refer the case to an ALJ as described in Option 2.

How should I submit my response?

To assure timely receipt, DOE strongly encourages you to submit your response by e-mail, fax, or an express delivery service. DOE accepts scanned images of signed documents (such as PDFs). You may respond by any of the following methods:

By email to: christina.studt@hq.doe.gov
By fax to: (202) 586-3274
By private carrier to: Christina Studt
Trial Attorney (GC-32)
U.S. Department of Energy
1000 Independence Ave., SW
Washington, DC 20585

What happens if I fail to respond?

If you fail to respond within thirty (30) calendar days of the date of this Notice, or by the time of any extension granted by DOE, DOE will refer the case to an ALJ for a full administrative hearing (Option 2, above).

What should I include in my response?

- 1) If you wish to accept DOE's settlement offer, you should submit the signed Compromise Agreement. If you do not wish to accept DOE's settlement offer, you should specify if you wish to elect Option 1; otherwise, DOE will proceed with Option 2, as described above.
- 2) Provide your Taxpayer Identification Number (TIN). The Debt Collection Improvement Act ("DCIA") requires all federal agencies to obtain the TIN in any case that may give rise to a debt to the government.

How did DOE calculate the maximum possible assessment?

Federal law sets a maximum civil penalty for each unit of a covered product that does not meet an applicable energy or water conservation standard that is distributed in commerce in the U.S. The maximum penalty is \$200 per unit. 10 C.F.R. § 429.120. DOE has calculated a maximum penalty of \$200 per unit for 2914 units distributed in commerce in the United States.

If you have any questions, please contact Christina Studt by email at christina.studt@hq.doe.gov or phone at (202) 586-0389.

Issued by:

_____/S/_____
Laura L. Barhydt
Assistant General Counsel for
Enforcement